

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

HARRY BEAULEAU)	
Claimant)	
VS.)	
)	Docket Nos. 199,141 & 199,142
K & B TRANSPORTATION, INC./)	
COMPANY DRIVERS, INC.)	
Respondents)	
AND)	
)	
HAWKEYE-SECURITY INSURANCE COMPANY/)	
REALISTIC ADJUSTMENTS, INC.)	
Insurance Carriers)	
AND)	
)	
WORKERS COMPENSATION FUND)	

ORDER

Claimant requested review of the preliminary hearing Order dated November 18, 1997, entered by Administrative Law Judge Kenneth S. Johnson.

ISSUES

After finding that claimant's contract of employment was made in Nebraska, the Administrative Law Judge determined claimant's accidental injury was not compensable under the Kansas Workers Compensation Act. Claimant requested the Appeals Board to review that finding and also determine whether Company Drivers, Inc., or K & B Transportation, Inc., was claimant's employer on the date of accident.

In addition to the issues claimant has raised, the respondent K & B Transportation, Inc., and its insurance carrier Hawkeye-Security Insurance Company, have raised the issue whether claimant timely filed a request to review Docket No. 199,141.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After the reviewing the entire record, the Appeals Board finds as follows:

The preliminary hearing Order should be affirmed.

Because the Administrative Law Judge consolidated Docket Nos., 199,141 and 199,142 for preliminary hearing purposes in issuing the preliminary hearing Order, the Appeals Board finds that claimant's application for review was sufficient to appeal both proceedings despite the fact it listed only one docket number.

Claimant sustained a work-related injury on December 28, 1993, in Chicago, Illinois. Because the accident occurred outside the state of Kansas, before claimant's injury was compensable under the Kansas Workers Compensation Act, he must either prove the contract of employment was made in the state of Kansas or Kansas was his principal place of employment. K.S.A. 44-506 provides in pertinent part:

. . . *Provided*, That the workmen's compensation act shall apply also to injuries sustained outside the state where: (1) The principal place of employment is within the state; or (2) the contract of employment was made within the state, unless such contract otherwise specifically provides . . .

Claimant neither alleges nor argues that Kansas was his principal place of employment. The present record indicates claimant's principal place of employment was outside Kansas. Therefore, the situs where the employment contract was concluded determines whether claimant may receive benefits pursuant to the Kansas Workers Compensation Act.

The Administrative Law Judge found the employment contract was made in Nebraska. For purposes of preliminary hearing and based upon the present evidentiary record, the Appeals Board agrees. After an initial telephone call from his home in Kansas, claimant was provided a bus ticket to Nebraska where he completed an employment application, took a drug test and physical examination, and completed the necessary Department of Transportation paperwork. The Appeals Board believes it is more probable that claimant was offered a job after completing the required paperwork and drug testing.

Because of the above finding, the question whether claimant's employer was Company Drivers or K & B Transportation is rendered moot.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order dated November 18, 1997, entered by Administrative Law Judge Kenneth S. Johnson should be, and hereby is, affirmed.

IT IS SO ORDERED.

Dated this ____ day of January 1998.

BOARD MEMBER

c: Robert A. Levy, Garden City, KS
S. Margene Childress, Kansas City, MO
Randall D. Grisell, Garden City, KS
Kenneth S. Johnson, Administrative Law Judge
Philip S. Harness, Director